

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

ELIZABETH ANN BOWEN,

Plaintiff,

vs.

ROBERT WILKIE, Secretary of
Veterans Affairs,

Defendant.

CV 18-90-GF-BMM-JTJ

**ORDER ADOPTING MAGISTRATE
JUDGE’S FINDINGS AND
RECOMMENDATIONS**

Plaintiff Elizabeth Bowen (Bowen) filed this lawsuit against her former employer, the Department of Veterans Affairs (VA). (Doc. 1.) Bowen worked for the VA as an Administrative Assistant in the VA’s Community Based Outpatient Clinic in Great Falls, Montana. Bowen asserts claims against the VA for sexual discrimination, retaliation, and disability discrimination. The VA filed a motion to dismiss Bowen’s disability discrimination claim under Fed. R. Civ. P. 12(b)(6). (Doc. 38.) The VA asserts that Bowen failed to allege sufficient facts to support a cognizable claim for disability discrimination. (Doc. 39 at 6-7.)

United States Magistrate Judge John Johnston issued Findings and Recommendations on October 23, 2019. (Doc. 49.) Judge Johnston took the allegations in Bowen’s Complaint as true and found that Bowen alleged sufficient

facts to survive the VA's motion to dismiss under Rule 12(b)(6). (*Id.* at 4.) Judge Johnston recommends that the Court deny the VA's motion to dismiss. (*Id.*)

Neither party filed objections to the Findings and Recommendations. The parties have waived the right to de novo review thereof. 28 U.S.C. § 636(b)(1)(C). Absent objection, this Court reviews findings and recommendations for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted). Reviewing for clear error and finding none,

IT IS HEREBY ORDERED that Judge Johnston's Findings and Recommendations (Doc. 49) are **ADOPTED IN FULL**.

IT IS FURTHER ORDERED that Defendant's Motion to Dismiss (Doc. 38) is **DENIED**.

DATED this 14th day of November, 2019.



Brian Morris
United States District Court Judge